



Appeal Decision

Site visit made on 11 February 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2020

Appeal Ref: APP/Z1510/W/19/3240554

Autumn Lodge, Queenborough Lane, Rayne CM77 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lightly against the decision of Braintree District Council.
 - The application Ref 19/00944/FUL, dated 20 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is the erection of 2 new dwellings including landscaping works and new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice refers to policies from the Braintree District Publication Draft Local Plan (DLP), which has been submitted for examination. However, it would appear that further evidence is required on Section 1 of the DLP. Furthermore, I do not know if there are any unresolved objections to the relevant policies within it. On the evidence before me, I therefore afford the policies of the DLP only limited weight with regard to paragraph 48 of the National Planning Policy Framework (the Framework) and instead give precedence to the policies within the Council's adopted development plan.
3. I note that a development for a new residential dwellinghouse at the appeal site has been previously refused¹ by the Council. This was then subsequently dismissed at appeal². I have had regard to this in my decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the countryside.

Reasons

5. The appeal site is located to the south of the settlement boundary of Rayne and is within the countryside for the purposes of planning policy. It accommodates a large, detached, property known as Autumn Lodge set in generous grounds on the south western side of Queenborough Lane. This lane is characterised by scattered linear development surrounded by large, open, fields. This, together with the verdant feel of the lane as a result of established vegetation along it,

¹ Ref. 13/00093/FUL

² Ref. APP/Z1510/A/13/2198002

- gives the immediate area a distinctly rural character. The open and undeveloped land to the side of Autumn Lodge contributes positively to this character and assists with the transition into open countryside as one travels away from Rayne.
6. This proposal seeks permission to construct a pair of detached, two-storey, properties on the undeveloped land to the side of Autumn Lodge. Given the relatively well-contained nature of the appeal site, these would not be unduly conspicuous in the wider landscape, including the Rayne Farmland Plateau. Nevertheless, the scheme would introduce a significant number of urbanising features to the site. This would include large residential properties and their garages, hard surfaces and gardens with their associated domestic paraphernalia. In my view, this would markedly urbanise the appeal site which would be out of character within the rural setting.
 7. I accept that the proposal would not harm a specific landscape designation. However, taking the above into account, it would introduce inappropriate features to the appeal site that would fail to integrate effectively with their immediate rural surroundings. The concerns of the previous Inspector for development at the appeal site have therefore not been overcome. Although there is existing boundary treatment along the front of the appeal site and established hedging and trees along the carriageway, views of the proposal's harmful impact would be available from certain vantage points along Queenborough Lane.
 8. Considered in isolation, the design of the proposed dwellings would be acceptable. However, this would not diminish the identified harm to the rural setting through the unacceptable urbanisation of the site. Planting could help screen the proposal. However, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable. Consequently, a condition requiring such planting would not mitigate the harm I have identified.
 9. My attention has been drawn to a number of developments which have been granted nearby. These demonstrate that in some instances it may be acceptable for residential developments to be located outside of the settlement boundary of Rayne. However, some of these involved the subdivision of dwellings and sites which were more enclosed by existing built form. In addition, several were determined in the light of the presumption in favour of sustainable development at paragraph 11 of the Framework, given the absence of a five year supply of deliverable housing land (5YHLS). The Council state that it can currently demonstrate such a supply. Consequently, these developments are not directly comparable to the appeal proposal, which I have assessed on its own individual planning merits in any event.
 10. For the reasons given, I conclude that the proposal would harm the character and appearance of the countryside. It would therefore conflict with Policies CS5, CS8 and CS9 of the Local Development Framework Core Strategy (CS). Amongst other things, these seek to ensure that developments respect and respond to local context and protect and enhance landscape character in the countryside.
 11. Saved Policy RLP2 of the Braintree District Local Plan Review (LP) seeks to restrict development in the countryside unless it is for affordable housing. This is to protect the countryside surrounding settlements. This strategy is

reinforced by saved Policy RLP16 of the LP, which allows for certain developments in hamlets and small groups of dwellings which are not enclosed by village envelopes, provided that they are not detrimental to the character of their surroundings. I therefore also find conflict with these saved policies of the LP. Notwithstanding the above, Policy CS5 of the CS and saved Policy RLP2 of the LP are restrictive in nature and are not fully consistent with the cost/benefit approach of the Framework. Consequently, conflict with these particular policies carries only limited weight.

12. Turning to the Framework, this seeks to make efficient use of land by encouraging the development of previously developed land. It also states that windfall developments and small and medium housing sites can make a contribution to meeting housing requirements. However, this should not be at the expense of achieving development which is sympathetic to local character, including the surrounding landscape setting. I have found that the proposal would not achieve this. There is therefore conflict with the design objectives of the Framework.

Other Considerations

Heritage

13. Turners Cottage to the east of the appeal site and Stocks Farmhouse to the west are both Grade II listed buildings. I have a duty to have special regard to preserving the setting of these listed buildings. The Framework advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefits of the proposal. The significance of these listed buildings appears to be derived from the appreciation of their historic architectural and structural features as well as their use. Their setting arises from the surroundings in which they experienced, which in this case is rural.
14. The setting of Stocks Farmhouse is primarily experienced from its access road, which is taken off New Road. This listed building is also separated from the appeal site by an established tree belt. Consequently, there would be limited inter-visibility between Stocks Farmhouse and the proposed dwellings. Thus, although the urbanisation of the appeal site would harm the rural character of the immediate area, it would not materially impact upon the setting of this designated heritage asset.
15. However, Turners Cottage can be experienced from Queenborough Road and is within relatively close proximity of the appeal site. The open space to the side of Autumn Lodge, which is visible from Turners Cottage, contributes positively to its rural setting. The urbanisation of the appeal site would draw development closer to this formerly isolated heritage asset and would harm its setting. However, this setting has already been impacted upon by the presence of nearby built form. Such harm would therefore be limited and less than substantial within the meaning of the Framework. Nonetheless, it still adds to the harm identified above and falls to be weighed against the public benefits of the scheme. I will return to this in my overall planning balance.

Protected European Sites

16. The appeal site is within a 'Zone of Influence' for a European designated site. Natural England has provided revised advice regarding the need to ensure that

new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this case, the Council considers that the scheme would not have a likely significant effect on a European site and has not requested any mitigation.

17. In any event, the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage³. As the competent authority, if I had been minded to allow the appeal it would have therefore been necessary for me to go back to the parties to seek further information in order to undertake an AA for this scheme. However, as I am dismissing the appeal for a substantive reason, I have not taken the matter further.

Planning Balance

18. The Government is seeking to significantly boost the supply of housing. The proposal would provide two houses in a fairly accessible location. This would make a modest contribution to the Council's housing stock. There would also be modest economic benefits associated with the scheme. However, these would be primarily related to the construction of the proposed units. I am therefore not persuaded that it would contribute significantly to the enhancement or maintenance of the vitality of rural communities. In this context, I give moderate weight to these social and economic public benefits.
19. The proposal would not harm the setting of Stocks Farmhouse. However, the absence of harm in this regard is a neutral factor. The scheme would also be acceptable in other respects. For example, it would not result in harm to an ecological designation. However, these are requirements of the development plan and are also neutral factors in the planning balance.
20. In my view, the above mentioned public benefits would outweigh the limited harm to the setting of Turners Cottage. Nevertheless, I have also found that the proposal would cause harm to the rural character and appearance of the immediate area. Whilst there would be some small ecological benefit through additional planting at the site, the scheme as a whole would therefore fail to fulfil the environmental objective of sustainable development within the Framework, which seeks to protect and enhance our natural environment. This weighs significantly against the scheme.
21. The appellant disputes the Council's 5YHLS and states that such a supply could be 4.15 years. I also note that previous Inspectors have considered that Policy CS5 of the CS and saved Policy RLP2 of the LP are out-of-date. Under these circumstances, the presumption in favour of sustainable development at paragraph 11 of the Framework would be engaged. However, even if this were the case, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits associated with the provision of two dwellings. Thus, the proposal conflicts with the development plan when read as a whole and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

³ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

Conclusion

22. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR